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Supreme Court, U.S.
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No. 10-322

IN THE

# Supreme Court of the United States

**October Term, 2010**

***In re* ADE O. OGUNJOBI, *Petitioner***

ADE O. OGUNJOBI,

Appellant-Petitioner,

v.

IRVING H. PICARD,

Appellee-Respondent.

## Petition For Writ of Mandamus

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## QUESTION PRESENTED FOR REVIEW

Should Bankruptcy Court Judge for the Southern District of New York, Honorable Burton R. Lifland, who is presiding in the bankruptcy proceeding to liquidate Bernard L. Madoff Investment Securities, LLC denied the buyout of the Company, Bernard L. Madoff Investment Securities, LLC by Ade O. Ogunjobi, an entrepreneur and petitioner under Motion For Intervention FRCP 24 (a) 24 (b) and the statute 11 U.S.C. Section 363 (b), (e), (f) in $65,000,000,000 stock/cash program to reimburse all investments lost by former creditors/customers of Bernard L. Madoff Investment Securities through the largest $175,000,000 Ponzi scheme in U.S. history or anywhere in the world?

## PARTIES

Ade O. Ogunjobi
-Appellant-Petitioner

The Honorable Burton R. Lifland, Judge
United States Bankruptcy Court for the Southern District of New York
-Respondent

Irving H. Picard
-Appellee-Respondent

## CORPORATE DISCLOSURE STATEMENT

Appellant-Petitioner Ade O. Ogunjobi is an individual. Toks, Inc. the entity that will receive all assets during the closing of the buyout hereby certifies that it (i) has no corporate parent and (ii) no publicly-owned corporation owns 10% or more of its equity stock.

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## PRIOR OPINIONS

There are no known opinions by any court of this nation that supports rejection of a buyout of an entity in any bankruptcy proceeding under 11 U.S.C. § 363 that governs the sale of any assets during the phase of liquidation to any interested party. It's the opposite that all prior opinions support the sale of any entity in any bankruptcy proceeding under 11 U.S.C. § 363 to any interested party in spite of any "objectors" to such sale.

## JURISDICTION

Petitioner seeks this Court's review of the judgment entered on June 18, 2010 by the United States Court of Appeals for the Second Circuit, SDNY, by a Petition of Writ of Mandamus pursuant to the jurisdiction conferred by 28 U.S.C.§ 1651 (a). This petition is timely filed because it was mailed within ninety days of June 18, 2010, date the Appeals Court dismissed the appeal from the District Court and Bankruptcy Court seeking order to approve the buyout of Bernard L. Madoff Investment Securities LLC in stock/cash program proposed to the Court(s) under 11 U.S.C. § 363.

## CONSTITUIONAL PROVISIONS

Article V, United States Constitution in pertinent part provides:

No person should be deprived of life, liberty, or property, without the process of the law.

Article XIV, Section 1, United States Constitution in pertinent part provides:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws.

## STATUTES INVOLVED

Title 11 U.S.C 363 (b), (e), (f)

## STATEMENT OF THE CASE

### Procedural History

On April 24, 2009 Petitioner, an entrepreneur filed Motion For Intervention in United States Bankruptcy Court SDNY to conduct buyout of Bernard L. Madoff Investment Securities LLC $65,000,000,000 in stock/cash program through the petitioner's company, Toks, Inc., a "public" entity which technically it is because Toks, Inc. filed its registration statement for its IPO to register 20 Class Common shares at $5,000 per share on August 31, 2001 with United States Securities and Exchange Commission (the "Commission") aka SEC, and later had a stock split of 20-For-1 at $250 per share for the purpose of making such share easy for issue to make acquisitions and liquidation by shareholders/investors. The Class A Common shares were never sold due to Petitioner, the founder of Toks, Inc. and Toks, Inc. in possession of such shares giving Toks, Inc.'s ability to wire any fund to SEC through its CIK number provided by SEC to file registration statement to register securities is perfect for any company that wants to be acquired in "heavy premium" in stock. In this case the Petitioner saw Madoff case, a "black eye" in Corporate America as an opportunity to right the wrong due to all "victims" are spread across the globe.

On June 2, 2009 a hearing was conducted before Honorable Burton R. Lifland regarding the buyout of Bernard L. Madoff Investment Securities LLC for $65,000,000,000 in stock/cash deal through $100,000,000,000,000 all stock tax free global transaction of Toks, Inc. that will support America's quest to full economy recovery, fight against global poverty using capitalism to create jobs and opportunities for the poor around the globe and finally, strengthen the financial system of U.S. in a remarkable innovation using "capitalism" which was later established in a business plan submitted on June 4, 2010 to OCC, FDIC and Federal Reserve Bank of Richmond when Charter for the bank and Bank Holding Company Formation was filed to obtain preliminary conditional approval to organize the bank and public notice taking out on June 21, 2010. Order to deny the buyout was issued and signed same day by Judge Lifland without any legal opinion or case law to support the order to deny the buyout because there was never such case law to support such drastic measure to deny reimbursement of victims of fraud when an offer to do so was made.

On June 6, 2009, Notice of Appeal was filed with District Court under 28 U.S.C.§ 158 (a) to order the buyout. Brief submitted on July 15, 2009. Petitioner filed Notice of Change for Address on September 10, 2009 providing only e-mail address to replace former address and telephone number for the

court to use to notify petitioner of any decision made by the court to order or deny the buyout. The Notice of Change For Address was filed to expose the illegal stalking, surveillance[1], wire-tapping of cell phone of petitioner and such illegal activities were detailed inside the Notice of Change For Address. Judge Denny Chin issued an order to dismiss if Petitioner refused to provide his new address and telephone as if petitioner is a "felon" or a danger to the public that needs to be monitored. For the record, petitioner has no criminal record or arrest or indictment of any felonies or ever being tried and found guilty and incarcerated.

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[1] The surveillance was very sloppy and the people recruited which one can say some came from local law enforcement department are very unsophisticated and not savvy at all. It's like a real "bad movie" called a "flop." They used minors, too which was the real reason petitioner contacted FBI. This Court must realize one issue here, the surveillance is not about Madoff offer, it's about what Petitioner proposed to help this country and Wall Street doesn't like it a bit. Wall Street along with Trustee is part of surveillance providing funding. Petitioner is on record being critical of Wall Street and its greed that is taking this country to another Great Depression.

The sovereignty of this country was violated. This country has been good to millions and millions over generations and generations and these "cowards" set out to undermine a "remedy" to get this country back on track as the "Economy Superpower" it used to be. This Court would be shocked that the whole surveillance and others involved is worse than Watergate scandal. American people have been betrayed here, no doubt about it. The very people in the media showing their faces and telling American people they wanted to help are the very people behind this to undermine what is good for this country behind closed doors.

Petitioner declined to give any new address or telephone number due to one factor that he is not "below the law" and saw that Judge Denny Chin is biased toward the petitioner. The purpose of the court order is to support the surveillance and entrapment designed to get petitioner into trouble as opposed to surveillance and entrapment designed to protect the public. Interpretation: Judge Chin would have been handed the luxury to dismiss the appeal based on petitioner being arrested and in custody if the entrapment was successful. Here is a judge that ignored the simple premise of our legal system that if an individual is not charged, he cannot be treated like a suspect; and if an individual is charged, he or she is innocent until proven guilty. A judge cannot disguise civil rights violation of a person in form of public interest. This Court must realize that the issue of surveillance was so serious that the tactics were used to get petitioner in trouble on numerous occasions with the help of local law enforcement engaging in the "entrapment" forced petitioner to file criminal complaints twice with Department of Justice and FBI. Example is numerous occasions petitioner was approached by total strangers if he had weeds or drugs or wanted to smoke some with such stranger. They were confused and delusional.

This Court must realize that it would take hundreds of pages to detail all the evidence of such illegal activities and petitioner believes such task is not warranted.

The irony here is petitioner was not responsible for Madoff fraud, financial crisis, mortgage meltdown, global crisis. Petitioner is only presenting solutions to address these problems. It would be great if local law enforcement agencies monitored the very people responsible for these problems America is facing now. U.S., state after state in this country are facing fiscal problems never seen before since Great Depression caused by greedy bankers and financiers in Wall Street. $12 trillion in deficit someone thinks I'm the problem.

On October 30, 2009, Judge Denny Chin dismissed the appeal for failure to provide address and telephone number. Again, no legal opinion or case law to support such dismissal based on litigant not providing his telephone number and address after litigant has established reason for doing so; and petitioner provided e-mail address. The District Court never served the first order to petitioner that required him to provide telephone number and address, petitioner found out when he called the court house to update all the filings. The District Court never served petitioner when it dismissed the appeal [2]when petitioner refused to provide his new

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[2] The District Court's refusal to serve petitioner the final order to dismiss the appeal through the e-mail provided to the Court was designed to keep petitioner filing appeal with Appeals Court in a timely manner required by the law to file appeal within 30 days of an order issued to dismiss. If entrapment and surveillance failed, keeping petitioner in the dark regarding the order to dismiss is an alternative.

address and telephone number. Petitioner also found out about the order dismissing the appeal when he visited Madoff Website set up for the proceeding doing a research for an information, not looking for any order.

On November 4, 2009, petitioner filed Notice of Appeal under 28 U.S.C. § 158 (d). Emergency Motion For Expedited Appeal was filed on November 23, 2009 as a matter of public interest because there will be no need for continuous hearings how to distribute assets that are barely under $2,000,000,000 and a little over $1,000,000,000 to victims that lost $175,000,000,000 according to government because the government used such estimate to get a forfeiture order against Bernard L. Madoff in the criminal proceedings signed by Judge Denny Chin, same judge that sentenced Bernard L. Madoff to 150 years. On December 10, 2009, Appeals Court denied the order for "Emergency Motion For Expedited Appeal."

On December 15, 2009 Appeals Court issued order to both Appellant-Petitioner and Appellee-Respondent providing dates to submit brief and oral argument schedule. Petitioner was ordered to submit his brief by January 15, 2010 and failure to do so would result in dismissal. Trustee[3] was ordered to

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[3] Trustee is the only one on record objecting to this buyout or sale which can be interpreted as "bizarre." Attorney Helen

submit his brief by February15, 2009 or risk sanction. Petitioner submitted his brief on December 29, 2009 and served Trustee. Petitioner sent a letter on January 7, 2010 requesting for March 30, 2010 for oral argument since the order set such week for oral argument. Trustee/ Appellee agreed to such date via letter as well.

On February 15, 2010 Petitioner received Motion To Dismiss[4] appeal from Trustee as opposed

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Davis Chaitman, partner at Becker & Poliakoff, who is also representing some victims labeled Trustee and his law firm Baker & Hostetler the "Goldman Sachs" of legal industry. Goldman Sachs is a "poster child" of greed and selfishness that is undermining the financial strength of United States. Any decent person doesn't want to be associated with Goldman Sachs. Trustee is also on record to sue the victims using "clawback" lawsuit which SEC has gone on record to reject under any circumstances. Investors lost money and trustee is suing to get money already lost. Is this justice? This Trustee is greedy. The whole purpose to sue 2,000 victims is based on two factors: a) to intimidate and deny claims because most of these victims can't fight back; b) to generate more legal fees because all legal fees are covered through the fund available at present which means money left for victim will be used to cover this ridiculous service trustee is providing.

[4] Trustee's Motion To Dismiss cited numerous case laws to support punishment against litigants that didn't comply with court orders. All of the case laws Trustee citied to back Judge Chin's dismissal of Petitioner's appeal when he refused to provide his telephone number and address had no such case where failure to provide address and telephone number is ground for dismissal because an e-mail is on record to replace address and telephone number and has never hindered the Court's ability to rule on petitioner's appeal. Most of the case laws cited by trustee had same pattern that the court order if

to brief as ordered by the Court. Petitioner replied seeking sanction against Trustee/Appellee for not complying to order to submit a brief. Petitioner asked the court to either grant the date of oral argument or issue order of buyout of Bernard L. Madoff Investment Securities LLC.

On June 18, 2010 Appeals Court dismissed the appeal as frivolous without any legal opinion and citing a case law *Pillay v. INS 45 F.3d 14, 17 (2d Cir.*

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not met would hinder court's ability to do its job. Brief of petitioner was accessible to Judge Denny Chin to rule on.

Trustee also cited in his motion to dismiss case laws that prohibit Pro Se from representing a "corporation" or "entity." Ironically, Appeals Court never used such technicality to dismiss petitioner's appeal because the mere mention of Toks, Inc. is a matter of record which is protected under First Amendment that governs free speech. Offer to conduct buyout/sale was only submitted by petitioner using court recognized document. Toks, Inc. is not prosecuting any action/litigation. If Toks, Inc. is sued and petitioner, who is founder appears to represent Toks, Inc., then the technicality Trustee is referring to would hold that a Pro Se cannot represent a corporation; same applies if Toks, Inc. is suing. Petitioner can remove Toks, Inc. and say an entity he is going to form would do the very job Toks, Inc. was established would do after the order of buyout is signed. So, Toks, Inc. or any "entity" is a matter of record to discuss or outline the transaction. Interestingly, one case law Trustee cited actually is about a hotly contested sale of an entity by an objector who happens to be a minority shareholder of such entity in a bankruptcy court that was approved for sale. And finally back to Appeals Court, the very case law Appeals Court cited to dismiss petitioner's appeal can be found in Trustee's case laws cited under "Table of Authorities" inside the Motion To Dismiss. (rest my case).

*1995)*, which one can argue there's no such case law to deny a buyout of a company in a bankruptcy proceeding beneficiary to the creditors or clients of such entity and which is the reason why Appeals Court has to use this very particular one, a criminal proceeding. Petitioner researched the case law and found out that the case law was actually a criminal proceeding about a career criminal with dangerous felony convictions who is facing deportation from the INS filed motion with the court for appointment of counsel. Appeals Court is trying to portray petitioner as a dangerous "criminal" who happens to be an entrepreneur on record to conduct a buyout of a company in a bankruptcy proceeding. Petitioner is a U.S. citizen facing no deportation nor seeking counsel in any criminal proceeding.

## Argument

Obviously, life is "Give and Take" and petitioner adopt a strategy to use remaining fund left in Bernard L. Madoff Investment Securities LLC the company to register stocks and at the same time issue stocks to the former creditors/clients of Bernard L. Madoff Investment Securities LLC. The remaining fund a little over $1,000,000,000 will be enough to register billions in stock of Toks, Inc. to gain access to capital markets, retain a law firm, hire employees for our operations which will be in banking, investment banking, philanthropy,

insurance, entertainment, sports, etc. Our extensive business plan in launching the largest bank in the world through $100,000,000,000,000 ($100 Trillion) in all stock tax free global transaction which will result in creating jobs. In this current economy any jobs created should be welcome.

*In re General Motors, et al (granting sale) B.R. 2009*, (Bankr S.D.N.Y. July 7, 2009). General Motors Corporation[5] was allowed to be sold to U.S. Government ( advanced $50 Billion), Governments of Canada and Ontario (advanced $9.1 billion) and $27 billion in unsecured bondholders. United States Bankruptcy Judge Robert E. Gerber approved the sale adopting 11.U.S. C. § 363 citing Appeals Court to affirm the sale of Chrysler LLC. Petitioner doesn't have to cite hundreds of case laws in bankruptcy proceedings supporting sale of assets which is the case here before this Court.

The order to dismiss the appeal stated that appeal "...lacks an arguable basis in law or fact..." Petitioner's brief to Appeals Court cited 11 U.S.C.

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[5] General Motors Corporation is heading to equity market through its IPO so the Company can use stock to cover all the billions it got. Isn't the same thing Petitioner is proposing regarding the buyout offer to buy Bernard L. Madoff Investment Securities LLC in stock/cash program? Capitalism as opposed to taxpayers bailout. Court must realize one issue here regardless of what General Motors is telling the public about its new profits, General Motors has a long way to go and the company is loaded with debts and overhead costs to operate the company.

Section 363. Petitioner also cited *In re Chrysler et al, 405 B.R. 84 (2nd Cir. 2009)*. Actually, the form sent to petitioner to fill out after filing Notice of Appeal asked to address the court if any case law is similar to the very appeal pending before the Appeals Court. Petitioner wrote down the Chrysler case law.

One can argue that the Bankruptcy Court, District Court and Appeals Court ignored the statute under Bankruptcy code and hundreds of case laws that supported sale of an entity in bankruptcy proceedings to any interested party regardless of objection to such sale. And worse of all denying the former creditors/clients of Madoff Company to be reimbursed compared to the current ridiculous plan by Trustee to distribute $1,000,000,000 in net equity format.

Over $700 billion of U.S. taxpayers were spent on banks bailouts. Chrysler LLC and General Motors Corporation got billions of taxpayers making them emerge from bankruptcy within a month. Creditors got paid some money if not all and jobs were saved in banks, Chrysler and General Motors. The Courts (Bankruptcy, District and Appeals) denied the creditors of Bernard L. Madoff Investment Securities LLC and the employees that will be hired by Toks, Inc. and all its wholly-owned subsidiaries and over 10,000,000 jobs that will be created through the $2.5 Trillion "Job Bonds" to support the full recovery of U.S. economy. The Courts were implying that the

law doesn't apply to us (creditors, employees, U.S., American people and petitioner, an entrepreneur), that's called "discrimination." Supreme Court just ruled discrimination[6] will not be tolerated as in Ricci v. DeStefano, 557 U.S. ___ (2009).

It's human nature to be jealous, envious, resentful, hateful of what someone else is doing with his or her life. The framers of the constitution were aware of this that man can't control such human nature, but there must be law to protect citizens from others that may want to deny others their God's given right to live their life. Article V, United States Constitution is clear on that. Court is the last place to find discrimination.

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[6] According to general interpretation of "discrimination" succinctly it states: "Discrimination takes many forms, but they all involve some form of exclusion or rejection. It also involves excluding or restricting members of one group from opportunities that are available to other groups." What the Courts that refused to order the sale were actually saying is the old misconception: "Message is good. Messenger is bad." No opinion from any of these courts to back their rejection. They liked the offer, they just don't like the entrepreneur (petitioner) making the offer. One cannot separate the man from his talent. If the message is good, the messenger must be acknowledged. One cannot eat his cake and have it at the same time. God set his own precedent long time ago when slaves were taken out of Egypt, God did not instruct Moses to return to Egypt and remain a slave. That's the whole core of discrimination that just don't want others to benefit from the opportunities accessible.

## REASONS FOR GRANTING PETITION

Supreme Court of United States supported the sale of Chrysler, *In re Chrysler LLC et al, 405 B.R. 84 (2nd Cir. 2009)* when Appeals Court affirmed the Bankruptcy Court to allow the sale of Chrysler LLC in spite of the opposition from creditors of Chrysler LLC and a stay was issued and later rescinded to allow the sale.

Appeals Court is in conflict for refusing to issue the order for buyout offer of Bernard L. Madoff Investment Securities LLC after both Bankruptcy and District Courts failed to adopt the 11 U.S.C § 363 (b), (e), (f) to allow the sale petitioner submitted to the bankruptcy court. Appeals Court's opinion in *In re Chrysler LLC-F. 3d—2009 WL 2382766 (2d Cir. Aug5)* to affirm the Bankruptcy Court to allow the sale of Chrysler was based on two important elements: 1) Economy. Both the Bankruptcy Court and Appeals Court established that any opportunity to allow people keep their jobs must not be ignored; 2) Appeals Court reminded the creditors that Sale v. Liquidation, which one is better? Sale, of course. Liquidation is the only alternative if a company is not sold and according to the approval of the sale of Chrysler LLC, creditors will get more money from "sale" as opposed to "liquidation."

Appeals Court rejected the argument by objectors that using TARP money to buy Chrysler LLC is unconstitutional because Congress only

approved TAPR money for financial institutions. Appeals Court interpretation was: 'what's the big deal' if TARP money is being used. Appeals Court is actually saying it's not your money, so no legal ground to object. Chrysler LLC got billions three times as in three chances. We are not even allowed to get one chance to close the buyout of Bernard L. Madoff Investment Securities LLC. If Appeals Court is saying 'what's the big deal' well, what's the big deal to buy Madoff company? We are not using anybody's money that's on record to say NO to the offer to buyout Bernard L. Madoff Investment Securities LLC, just like Congress was not on record to oppose the TARP money being used to buy Chrysler LLC.

Petitioner is quick to add to establish that when it comes to money, no one can actually claim it, because everyone has access to use it. Civilized society only allows people to make a living, not control access to money. The day we allowed that to happen, only few people will be making a living and the rest, nothing.

The very reason Supreme Court should grant Writ of Mandamus to compel Bankruptcy Court to sign order of the buyout as the same as "sale" like most Bankruptcy Courts have done in the past reflects the two elements Appeals Court adopted in its opinion. Petitioner has a business plan that will hire a great deal of people around the country

through all its operations and agenda to help United States' quest to full economy recovery. Also Supreme Court must realize that "buyout" which is the same thing as "sale" is more beneficiary to the former creditors and victims of Bernard L. Madoff Investment Securities LLC because it's obvious $1,000,000,000 will never, never, never be enough to cover $175,000,000,000 lost of investments. To issue $65,000,000,000 in stock set aside for the former creditors/clients of Bernard L. Madoff Investment Securities LLC is better than liquidation that gets them nothing and will restore faith in our legal system that when the occasion arises to right the wrong, the Court will be there to do so.

The Court must understand that technically, the current "owner" of Bernard L. Madoff Investment Securities LLC are the former creditors/clients of Bernard L. Madoff Investment Securities LLC. Bernard L. Madoff forfeited his right when he pled guilty. Offer is being made to the current "owner" and no objection has been filed by any former creditors/clients of Bernard L. Madoff Investment Securities LLC with any lower courts regarding the petitioner's offer to buyout Bernard L. Madoff Investment Securities LLC.

Supreme Court should take into consideration that petitioner has outlined this format to reimburse the former creditors and customers of Bernard L. Madoff Investment Securities LLC after the closing

of the buyout which is to transfer all assets of Bernard L. Madoff Investment Securities LLC as in "illiquid" and "liquid," forfeited personal assets of Bernard L. Madoff which the government estimated $800,000,000 to Toks, Inc. "effective immediately." It's obvious close to impossible to distribute forfeited assets of Bernard L. Madoff to victims.

This is how it will work: The very day Bankruptcy Court receives the Writ of Mandamus to sign the order for buyout or sale to Toks, Inc., and the order was signed, that very day order was signed Toks, Inc. will wire $200,000,000 to SEC using its CIK number that was provided to Toks, Inc. by SEC to file registration statement to register 3,200,000,000 Class A Common shares at $250 per share or $800,000,000,000 in stock. The Court must realize that SEC will never, never accept any registration statement if SEC filing fee is not wired first. Then, we will submit prospectus to support our registration statement to register $800,000,000,000 in stock. This prospectus will unveil our business plan to the whole world in terms of supporting the economy recovery of U.S. through Toks Capital $2.5 trillion "Job Bonds"[7] issue to create over 10,000,000

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[7] Petitioner got the idea "Job Bonds" when he was drafting the business plan to file the charter for the bank from "War Bonds" issued by U.S. back then to fund the war and what a great way to issue "Job Bonds" to investors to create jobs that will help economy recovery of U.S. If investors can buy "War Bonds" and make money, same can apply for investors to buy "Job Bonds" and make money, as well. This time "Job Bonds" is issued in a

or more jobs in U.S.; global economy recovery through projects and acquisitions; our fight against global poverty through jobs creation for the poor around the globe; and finally launching of the largest bank [8]in the world to strengthening the financial system of U.S.

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private sector, by a corporation, not by government, using the great capitalism system. The Court must also realize that the Toks Capital has the discretion to increase the $2.5 trillion "Job Bonds" to $5 Trillion due to 14 million Americans out of job and top economists across the country have called for action NOW or GREAT DEPRESSION. This extraordinary writ will prevent American people and the global community waking up one day to declaration of GREAT DEPRESSION.

[8] This is what Wall Street and others are against because what this "Bank" would do for U.S. and around the globe will set the tone for what's good about money and capitalism as opposed to what we are witnessing today in Wall Street and financial world as in "greed" and "ugliness." Total opposite. Petitioner is on record that this 'Bank' would aggressively campaign to end "mortgage securities" because "mortgage securities" is the worst financial instrument ever introduced to capitalism. Take a look at one of the factors of the financial crisis, mortgage securities is one of them or at the "core." AIG's $180 billion collapse is tied to mortgage securities. The largest bank will not engage in the mortgage securities deal. This very security has ruined lives and undermine the very core of "American Dream" that allows one to own a home. The parallel is "slavery" used to be legal until society condemned it. Not because banks and Wall Street are allowed to engage in this transaction doesn't make right. It's a legal "fraud." Quick summary is: if a buyer buys a home, hundreds of investors are ready to buy such lender's debt leading to higher interest rate that can overwhelm a family that still has an obligation to spend money on other issues besides spending all their pay check to investors to keep a roof over their head---and people are wondering why consumers are not spending. Summary outlined to OCC when

charter for the largest bank was filed outlined how Toks, Inc. would include 30 or more major U.S. large banks (that received bailout)) starting with the largest bank in U.S. in the $50 trillion all stock tax free global proposed exchange tender offers. The agenda calls for all bad assets and bad loans of these major banks would be assumed and each major bank acquired would be taken back to public with their names intact in other words each bank will conduct an IPO to give it fresh capital and new "currency" aka 'stock' in return for the bad assets and loans Toks, Inc. would get stake ownership of each bank acquired in stock and taken back public. This is the kicker: Toks, Inc. would then turn over the bad assets and loans and stakes of each bank it owns to Aurelia Stephen Banc Corp (the largest bank), plus may be two major banks will be turned over to Aurelia Stephen Banc Corp and $30 trillion in stock grant to the bank from its "parent company," Toks, Inc. Aurelia Stephen Banc Corp will undergo a spin-off which will result in 60% stake owned by shareholders; 30% stake owned by the trust set up for the poor around the globe and 10% owned by the firm that will implement multitrillion projects around the globe to create jobs around the globe. The reason why this bank is the largest bank in the world is major large banks in each country would be acquired and become our subsidiary. The Fight Against Global Poverty campaign is the key to convince each country around the globe that it's critical to own a bank in each country to meet this goal to eradicate poverty and the $100 trillion all stock tax free global transaction is designed for this purpose. This will be a reasonable factor each country can embrace that this is a global issue as opposed to one man trying to take over the financial system around the globe. Nothing can be further from the truth. Each major bank would get new by-laws to curtail the reckless that nearly collapsed the financial system of U.S. and around the globe. This agenda will actually create more jobs and generate more taxes for U.S. instead of these banks and Wall Street getting tax breaks because of bad loans and bad assets that are not performing. One more issue Wall Street and banks are broke and most are not telling the truth. The backlash of bailout money is what Wall Street and banks don't want to revisit and the only way Wall Street and banks would get the chance to make money is another GREAT

The court must realize again, whatever is left in fund of Bernard L. Madoff Investment Securities LLC after $200,000,000 is wired already retained law firm(s) (a designated law firm will be retained first as soon as the Writ of Mandamus" is issued to provide legal service), hired employee for all of our subsidiaries that will spread across the nation. From that $800,000,000,000 in stock filed for registration, $65,000,000,000 in stock will be set aside for the former creditors and customers of Bernard L. Madoff Investment Securities LLC. Acceleration to declare the securities effective will be requested after the prospectus has been filed, even though 20 days after registration statement of a company is filed, the securities became "effective" for sale to the public. Post-effective is what SEC does when it issues

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DEPTRESSION because all the debts U.S. would need to issue to address GREAT DEPRESSION will be sold to Wall Street on behalf of their clients and investors generating billions in fees to Wall Street and banks while American people will be looking at $50 trillion or more in deficit that would take forever to pay back because if the government raises taxes, people will cut spending and if the government provides tax breaks, no income to pay off the money borrowed. GREAT DEPRESSION in 21st Century would be catastrophe that would make the last GREAT DEPRESSION looked like a "picnic." The reason is because the last GREAT DEPRESSION only dealt with few millions of people, today we are not only counting ten times of peoples, billions around the globe starting with United States. The choice is clear: spend $5 trillion to create jobs and implement the agenda petitioner proposed to strengthened the U.S. economy and global benefits or spend $50 trillion to deal with GREAT DEPRESSION that will take forever to pay off the debt. "Prevention" is better than "Cure." Capitalism is the answer.

comments on the registration statement and demand certain changes made to accommodate full disclosure to investors before SEC finally declares the securities "effective" for sale to the public. In our case we are not even selling these securities, we are issuing them out to former clients/creditors of Bernard L. Madoff Investment Securities LLC through the buyout offer to cover the losses of the former creditors/clients. Seeking acceleration is based on two factors: i) SEC is familiar with Madoff case and SEC would love to repair the damage that SEC was to blame partly for the largest Ponzi scheme in the world; ii) Our Business Plan filed with SEC in form of prospectus outlined agenda to support full economy recovery of United States; acquisitions with the stock; global economy recovery.

This Writ of Mandamus is of great importance and public interest especially United States where an average American is losing his or her home and job at the rate never seen before since Great Depression. Any delay to do something will lead to full blown Great Depression that will take decades to recover from. Everybody talks about bad economy and no one is actually coming forward with remedy to address such dilemma. Federal Reserve continues to lower interest rate which the result of such approach is opposite. Lenders will not be able to generate income because of low interest rate. What's the point of lending when as a lender you can't make money. Congress , Senate or White House can't help

this economy and the Court is fortunate enough to get the remedy from the petitioner, an entrepreneur. This very Court stepped in when the country was in verge of constitutional crisis during the election 2000 election see Bush v. Gore, 531 U.S. 98 (2000). Time for this Court to step in because this country is on verge of total financial collapse. The remedy to the bad economy will start with Madoff situation. See below:

Toks, Inc.'s access to capital markets is the key here. The next agenda is to issue two packages of debt instruments as in "Convertible Bonds" and "Commercial Paper[9]." The convertible bond issue will be $1,500,000,000,000 ($1.5 Trillion) that will be converted to $3,000,000,000,000 common shares when principal matures. The second is $250,000,000,000 ($250 Billion) in Commercial Paper pledging $350,000,000,000 in stock as collateral from the $800,000,000,000 in stock registered with SEC. The registration of

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[9] Both the "Convertible Bonds" and "Commercial Paper" will provide capital needed to cover all the costs to conduct $50 trillion all stock tax free global proposed exchange tender offers to acquire 200 major large publicly traded entities (Blue Chip) around the globe. A reminder that investors will be paid twice on the convertible bonds as interest and dividends on the common shares when converted. Investors would love this deal because the current situation in this country where "socialism" is beginning to replace "capitalism" is the worst thing because investors can't make much in buying government issued debt thus undermining the opportunity to allow entrepreneurs and investors to continue supporting economy of this country.

$800,000,000,000 ($800 Billion) in stock is done for three reasons: i) use the stock as collateral; ii) unveil our business plan to the whole world, which is a prospectus filed with SEC when registration statement was filed; and iii) establish filing "shelf" registration in the future.

We will continue with agenda to start creating more jobs. After the closing of the commercial paper, Toks, Inc.'s next agenda is to wire additional $50,000,000,000 ($50 Billion) to register 500,000,000,000 in Class A Common Shares at $250 per share or $100,000,000,000,000 ($100 Trillion) in stock. Such registration is called "shelf" registration because we are filing registration to register same securities as in Class A Common shares and the original prospectus already outlined what the Company would be doing. $50,000,000,000,000 ($50 Trillion) in stock set aside to conduct acquisitions of major large cap (Blue Chip) 200 or more publicly traded entities across the globe in heavy premium (sky is the limit). The goal here is to make Toks, Inc. the largest U S. publicly traded entity and largest publicly traded entity in the world with the most annual revenues worldwide. Ballpark: $5 Trillion in annual revenues. Petitioner is ready to establish to the Court that after the dust settles, this is going to be $200,000,000,000,000 ($200 Trillion) all stock tax free global deal.

This is it, Supreme Court[10]. Toks Capital, subsidiary of Toks, Inc. will issue $2,500,000,000,000 ($2.5 Trillion) "Job Bonds" as the largest bonds issue ever issued in the world. This is the agenda to support United States in its quest to economy recovery that spill across the globe. The proceeds from this "Job Bonds" will make investments and lend to businesses as in small and medium looking for capital to expand and hire people across the nation. We will assist with the trouble mortgage industry to stop foreclosures. We will work with States, communities, cities and economic developments across U.S. to reach a goal to create 10,000,000 jobs or more. Enormous campaign about the "Job Bonds" issue. The "Job Bonds" issue will be successful because American people are generous and have provided money for countries in trouble, and American people will buy these bonds because they will make money and at the same time help the country. This is money for the "Main Street." This is an important issue about the economy Supreme Court must consider greatly that out of some bad that happened as in Madoff multibillion Ponzi scheme, financial crisis, mortgage meltdown, Great

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[10] Actually what the Petitioner is trying to convey to the Court reflects the prediction experts made when the Court convened for the 2009 Term that the Court would get involve one way or the other regarding the financial crisis, but no one ever knew it was going to be this petition the Court would get the opportunity to have a say in the financial crisis and the state of U.S. economy and global crisis.

Depression looming, came out something good, this great vision.

This is the very core of the Writ of Mandamus. The Court should entertain the debate "Stimulus" vs. 'Capitalism" and the answer is clear, "Capitalism" is better because an entity like us can issue the $2.5 Trillion "Job Bonds" and make money for the shareholders of the entity ("issuer"), investors that bought the bonds and create jobs for people that need the jobs. Stimulus is all about borrow, borrow, borrow that will later be passed on to taxpayers through higher taxes---even if jobs are created. This "Job Bonds" is good America and good for the global community due to the agenda to launch fight against global poverty. The poor have been neglected in good times or bad times and any agenda to help the poor must be embraced. The stock markets around the globe will react positively. Issuing bonds to create jobs as opposed to issuing bonds to pay off debts will generate positive reactions in the markets around the globe.

The Court must realize that what type of entity can afford to issue $2.5 trillion "Job Bonds"? Only an entity with $100,000,000,000,000 ($100 Trillion) or more all stock global transaction with potential annual revenues of $5,000,000,000,000 ($5 Trillion) can support the $2.5 Trillion "Job Bonds" issue. No investors would buy bonds with potential to default. Actually, most bonds that are being

issued today are paying off debts. It's easy to pledge at least $5,000,000,000,000 ($5 Trillion) in stock from the $100,000,000,000,000 ($100 Trillion) in stocks registered against the $2.5 trillion "Job Bonds" issue; assets that will be part of the entity after closing of major global acquisitions that will be valued $75,000,000,000,000 ($75 Trillion) in stock and cash; all the investments and lending to create jobs across U.S. through the $2.5 trillion "Job Bonds" that will pay back dividends; and finally millions of projects across the globe to create jobs for the poor to support our fight against global poverty will pay dividends as well. One doesn't register $100,000,000,000,000 in stock without buying assets to support the stock issue. Our stock is priced at $250 per share which means easy to issue out at "heavy premium." Most blue chip companies trade lower than $50 per share. If any trades higher, we can issue double to shareholders for price of one. No handicap. Our tender offer is flexible[11].

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[11] Petitioner is on record with this Court that the only shareholder of Toks, Inc. is Ade O. Ogunjobi, petitioner because of the technicality to be in possession of all 20 shares registered with SEC. Never sold to the public. A company doesn't have to sell its shares to the public when registration statement is filed. This means Toks, Inc. doesn't need any approval from its own shareholders to pay heavy premium to shareholders of other publicly traded entities that will be acquired. The word "induce" comes to mind. This is also good for Madoff victims. No shareholder to worry about. Of course, when the whole deal closes and stock is trading, then it will be another different ball game.

Petitioner also wants to remind the Court that no one suffers any injury regarding this buyout offer. The Bankruptcy Court [12]will not suffer any injury

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[12]Judge Lifland during the hearing made a statement that petitioner did not bring money of his own. The reason why Judge Lifland made that statement is because there's no legal precedent to support his order to deny the offer to conduct the buyout. Trustee is not be asked to bring money of his own to become trustee. Such statement is called "double standard" or "discrimination." This type of transaction doesn't need "money of my own" because this is $175,000,000,000 fraud and the offer proposed by petitioner is priceless and whatever money brought in would never made any difference. This type of transaction is called "creating value" and creating value from this fiasco, the largest Ponzi scheme takes an exceptional God's given talent. One doesn't ask a gifted athlete to bring money of his own in other to play the sport and that applies to all professions in our society. This reminds the petitioner an interesting story about a talented Hollywood writer back in the 30s that got so incensed how studio bosses treated writers, he actually took blank papers and marched to the studio boss' office, slammed the blank papers on the table and told the guy to shoot a movie from the script full of blank papers. People are quick to want to belittle others and at the same time one wonders who else came up with any idea close to what petitioner is proposing? Petitioner is working day and night to create over ten million jobs in U.S. through the largest corporate bond issue titled "Job Bonds." Would Judge Lifland and trustee demand those ten million or more we will create jobs for through the "Job Bond" issue to bring "money of their own" in other to make a living? Bankruptcy Court and Appeals Court never demanded the folks at Chrysler or General Motors to bring money of their own to keep those two entities running. Wall Street and Banks that got billions in bailout money never subjected to such "standard." Any individual is allowed to make a living and engage freely to become an investor. Petitioner is an entrepreneur who is making a living structuring a deal that will pay him fees. Petitioner already made it clear that whatever his fee, such fee would remain with the company in

because Bankruptcy Courts approve sale of entities and assets of entities in bankruptcy proceedings all the time across the nation. That's the role of the bankruptcy court to oversee sale of assets to interested parties. The Trustee will not suffer any injury because Trustee is not an investor or a victim of any fraud and will be paid for the services it rendered until we take over when the Writ of Mandamus is issued to compel the Bankruptcy Court to sign order for the buyout. Actually, Trustee's conflict is so huge that one can't help it but to observe how detrimental such conflict is to the former clients/creditors of Bernard L. Madoff Investment Securities LLC because Trustee's attitude is investors already lost billions, so we (trustee and his law firm) may as well get whatever we can get and run. Compared to petitioner's role which is zero conflict---with $200 million going straight to SEC as the filing fee to register almost $800 billion in securities, that will end the whole fiasco just like that. It's over. Madoff is in prison for the rest of his life and victims are getting reimbursed. Case CLOSED!!!!

SIPC will not suffer any injury because it will be reimbursed all money spent on administrative

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other for people to be hired and allow us to continue with the all the agenda already outlined inside this petition. At least petitioner is getting paid for bringing in solutions compared to Wall Street that messed up and got billions for such fiasco; or say rewarded for doing bad job.

costs during this bankruptcy proceeding; plus money already paid out in partial payment to address "hardship" situation of some of the victims. Actually, SIPC[13] is borrowing money to make partial reimbursements. Mary Schapiro, SEC Chairman told Congress in a hearing that SIPC has no money at all to accommodate all claims in Madoff fiasco. That's true. Who has $175,000,000,000? No one. But Toks, Inc. is using Capitalism through our $100,000,000,000,000 all stock global transaction to address this as opposed to taxpayers footing the bill every time someone messes up as outlined to this Court.

Another important debate for the Court is the former creditors/customers of Bernard L. Madoff Investment Securities LLC are first and foremost "investors." Petitioner is considered an entrepreneur, whose "talent" is to make something out of nothing. A talented entrepreneur can take nothing and turn it into something--- just like an artist can create a "masterpiece" on a blank paper; or a writer can create a "masterpiece" novel from blank papers; or a sculptor can create a "masterpiece" from a stone. Talented entrepreneur must possess ability to "induce" in a proper context, not engage in

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[13] Whatever SIPC borrows to aid the victims of Madoff's fraud, one thing is clear SIPC cannot afford to borrow $65 billion as petitioner proposed to conduct $65 billion in stock/cash issue to the victims in stock/cash program in the buyout/sale offer. There's never any competition between SIPC and petitioner, none whatsoever.

fraudulent act(s). This is what petitioner is proposing in terms of this buyout of Bernard L. Madoff Investment Securities LLC through Toks., Inc.'s transaction.

And finally, it's the law to issue the Writ of Mandamus to support what Bankruptcy Courts have been doing for years to allow sale of any property in any bankruptcy proceedings to any interested party. Not one former creditor/customer is opposing this buyout, nor any counsel on record representing the former creditors/customers of Bernard L. Madoff Investment Securities LLC on record opposing the buyout. No injury to the former creditors/customers of Bernard L. Madof Investment Securities LLC. The buyout offer will be approached with issuing stocks to cover claimant's loss and advised such claimant if he or she wants to exchange for cash or hold on to it when the stock is trading and liquidate for profit. If claimant wants to exchange part of the stock for cash, we will accommodate because we can always sell back those stocks back to investors for cash in the future. If the claimant wants to exchange all stock, we will be able to accommodate as well. This is Capitalism as its best.

All assets under the buyout plan including the forfeited assets of Mr. Bernard L. Madoff will be transferred to Toks, Inc. which will be owned by the shareholders. There's nothing in the buyout language that will state that Ade O. Ogunjobi,

petitioner will be owner of the assets. A designated law firm will be ready to take over from the Trustee and assist filing all legal papers to transfer all assets properly to Toks, Inc. The current scenario for the former clients/creditors is nightmare because a great deal of claimants are being denied. No money to cover all losses. A little over $1,000,000,000 to reimburse thousands of victims and claimants in a $175,000,000,000 Ponzi scheme. Impossible. The only remedy here is the buyout same as sale proposed by petitioner that will accommodate all former creditors/clients of Bernard L. Madoff Investment Securities LLC without any delay.

## CONCLUSION

In conclusion, Petitioner, Ade O. Ogunjobi, respectfully prays that a Writ of Mandamus be issued by this Court directed to Respondent, the Honorable Burton R. Lifland Judge of the United States Bankruptcy Court of the Southern District of New York, directing him to sign an order of buyout or sale of Bernard L. Madoff Investment Securities LLC to Toks, Inc. for $65,000,000,000 in stock/cash program to reimburse all money lost by former clients/customers of Bernard L. Madoff Investment Securities LLC.

DATED: Phoenix, Arizona
September 1, 2010

Respectfully submitted,

Ade O. Ogunjobi
8922 N 11th Street # 7
Phoenix, AZ 85020
tspnotes@tspnotes.com
(347) 478-1099

# APPENDIX

## TABLE OF CONTENTS

Order,

United States Court of Appeals for the Second Circuit for the Southern District of New York, Dismissing Appeal from the District Court Order to Dismiss Appeal from Bankruptcy Court Order Denying Motion For Intervention to Conduct Buyout/Sale of Bernard L. Madoff Investment Securities LLC for $65,000,000,000 stock/cash program by Toks, Inc. submitted by Petitioner,

Prepared
6/18/2010.....A

Order,

United States District Court for the Southern District of New York, Dismissing Appeal from Bankruptcy Court Order Denying Motion For Intervention to Conduct Buyout/Sale of Bernard L. Madoff Investment Securities LLC for $65,000,000,000 stock/cash program by Toks, Inc. submitted by Petitioner,

Prepared
10/30/2009.....B

Order,

United States Bankruptcy Court for the Southern District of New York, Denying Motion For Intervention to Conduct Buyout/Sale of Bernard L. Madoff Investment Securities LLC for $65,000,000,000 stock/cash program by Toks, Inc. submitted by Petitioner,

Prepared

6/2/2009.....C

A

**United States Court of Appeals For the Second Circuit**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 18th day of June, two thousand ten,

Present:

Joseph M. McLaughlin,
Guido Calabresi,
Circuit Judges.*

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In re Securities Investor Protection Corporation

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Ade O. Ogunjobi, Toks, Inc.,

Appellants,

v. 09-4784-bk

Irving H. Picard,

Appellee

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Appellee, through counsel, moves to dismiss as frivolous the pro se Appellants' appeal. Upon consideration, it is hereby ORDERED that the motion is GRANTED and the appeal is DISMISSED

because it lacks an arguable basis in law or fact. *See Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995).

FOR THE COURT:

/s/Catherine O'Hagan Wolfe

Clerk

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* Judge Debra Ann Livingston has recused herself from consideration of this motion. Pursuant to Second Circuit Internal Operating Procedures E (b0, the matter is being decided by the remaining members of the panel.

B

**United States District Court Southern District of New York**

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In re BERNARD L. MADOFF
INVESTMENT SECURITIES LLC

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ADE O. OGUNJOBI, TOKS, INC., and WHOLLY OWNED SUBSIDIARIES

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**ORDER**

09-Civ. 5877 (DC)

CHIN, District Judge

On September 15, 2009, intervenor-appellant Ade O. Ogunjobi filed Notice for Change of Address that provided only an e-mail address. On September 23, 2009, I advised Ogunjobi that if he did not provide his updated telephone number and physical address to the Court withing 10 days, his appeal would be dismissed. In response. Ogunjobi wrote to the Court on October 26, 2009, indicating that he continues to decline to give his personal information and is aware that this choice will result in the dismissal of his appeal.

Accordingly, it is hereby ordered that the above-captioned action is dismissed. The clerk of the Court is directed to close this action.

SO ORDERED.

Dated: New York, New York
October 30, 2009

/s/ Denny Chin

United States District Judge

C

**United States Bankruptcy Court For The Southern District of New York**

# Minutes of Proceedings

**Date: June 2, 2009**

Adv. Pro. No 08-01789 (BRL)
SIPA Liquidation

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Securities Investor Protection Corporation

Plaintiff-Applicant,

v.

Bernard L. Madoff Investment Securities LLC

Defendant.

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Present: Hon. Burton R. Lifland, Bankruptcy Judge

Monica Saenz de Viteri
Courtroom Deputy

Mindy Rothman
Courtroom Reporter

Proceedings:

Ade O. Ogunjobi, Representative For Toks, Inc.,
Motion For Intervention

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Orders: Relief sought in the Motion:
Granted xDenied
Dismissed Default

It is So Ordered.

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BY THE COURT FOR THE COURT:
Vito Genna, Clerk

/s/ Burton R. Lifland June 2, 2009

United States Bankruptcy Judge Date

By: /s/ Monica Saenz de Viteri

Deputy Clerk